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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant: D. Klein et al. |) | |
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| S.N.:10/760,336 |) | Examiner: Harry D. Wilkins, III |
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| Filed: January 20, 2004 |) | Art Unit: 1742 |
| |) | |
| Confirmation No: 9814 |) | |
| |) | |
| For: APPARATUS AND METHOD FOR THE |) | |
| CONVERSION OF WATER INTO A NEW |) | |
| GASEOUS AND COMBUSTIBLE FORM AND |) | |
| THE COMBUSTIBLE GAS FORMED THEREBY |) | |
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DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Dennis J. Klein, declare and state:

1. I am one of the Applicant(s) of the above-identified patent application and the inventor of the subject matter described and claimed therein.
2. I have read the Official Action mailed December 23, 2004, and the Gonzalez patent cited therein. I note that the Examiner alleges that the Examiner has rejected the subject matter of claims 1-8 as being anticipated by Gonzalez. The Examiner alleges that the '060 patent "anticipates the invention as claimed. Gonzalez teaches (see col. 3, line 54 to col. 4, line 3 and Fig. 1) an electrolyzer for the separation of water including an aqueous electrolytic solution

comprising water filling an electrolysis chamber such that a gas reservoir region is formed above the solution, two principal electrodes 20 as anode and cathode being immersed in the solution, one or more supplemental electrodes immersed in the solution interposed between the principal electrodes wherein all of the electrodes are held in fixed spatial relationship and the electrolyzer produces a combustible gas of the general formula 'HxOy'."

In order to provide further demonstration of the lack of anticipation propounded in the cited references and to explain for the benefit of the Examiner the problems not solved until the present invention, I have conducted some experiments to compare the Gonzalez device with the electrolyzer claimed in the instant application.

3. First by way of comment, I note that Gonzalez disclosure is claiming the recombination of hydrogen and oxygen, the instant application invention never recombines hydrogen and oxygen. Therefore, Gonzalez's device admittedly is designed to perform a different function and result in a different product gas structure.

Gonzalez's device uses a vented system while the present invention uses a totally enclosed system.

His system goes directly into the combustion chamber, as only his gas (this absolutely will not work on anything but a test). His produced gas will cause hydrogen embrittlement and the system would seize. We use our gas as an additive and use the gasoline or diesel fuel as the catalyst, using only a small amount of our produced HHO gas. Further, our gas is different because of the resultant energy release characteristic obtained by using our design.

The gas produced by our system is different than that of Gonzalez's produced gas. See the independent lab tests that were conducted by the Adsorption Research Laboratory in Dublin, Ohio, and described in the specification on pages 22-23. Also note the test by PdMA

Corporation of Tampa, Florida and the Southwest Research Institute of Texas, both described on page 24 of the specification. Tests were also conducted by Air Toxic LTD of Folsom, California (see page 26), and SunLabs of the University of Tampa in Tampa, Florida (see page 27). The conclusions are summarized on page 28 and page 29 of the specification. The specification description and the accompanying drawings clearly show that the gas produced by our invention has structural characteristics significantly different than that produced by Gonzalez's device, especially when seeing the energy release characteristics described in the specification of the present invention.

His system is wired differently to the cell plates using one plus and two minus. We have configured the power source in the same manner and it produces a different gas, as demonstrated by the observed bubbles in the attached photos. Further the gas produced using his configuration will not produce a gas with an energy release that goes from 259 degrees F to 13000 degrees F when instantly touched to different substrates.

Gonzalez states that his gas produces variable energy implying the production of different gases, while our electrolyzer produces the exact same gas every time if the electrolyzer is manufactured according to the drawings included in the instant application.

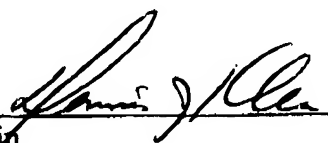
Gonzalez states that the space between the plates could go from 1/8" apart of closer. I do not agree. Space is critical as you can see from the attached photos. Exhibit C photo shows an electrolyzer (configures according to plate spacing and power source according to our invention) with a 28% KOH electrolytic solution, where the clusters, represented by the bubbles, are all evenly coming off the plates. Note the difference in the gas as well when compared to Exhibit A photo, which is wired according to the Gonzalez disclosure and the plate spacing is closer than that of the Exhibit C photo.

The gases are obviously reacting differently. The gas bubbles in the exhibit A photo show that with closer plate spacing, the production of gas is inhibited and the gas is not uniformly produced as demonstrated (represented) by the random size bubbles. The gas produced by our electrolyzer configuration clearly gas different unique and novel characteristics, for example as demonstrated when the produced gas is added as an additive to diesel fuel. See the summary of the test performed by Southwest Research Institute in Texas in the specification, which is incorporated by reference herein.

4. For the above reasons, among others described in the specification of the present invention, I respectfully submit that the Gonzalez disclosure does not anticipate the present invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, or of any patent issuing therefrom.

Dated: 3/5/05


Dennis J. Klein